THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 11943 of 2000

DATE: 05-10-2007

Between :

K.Sarojamma

… Petitioner

And

The District Collector,
Chittoor and another.

… Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 11943 of 2000

ORDER:

This writ petition is filed seeking a declaration that the action of the respondents in canceling the house site patta granted in favour of the petitioner's husband is arbitrary and illegal and for a consequential direction to regrant the said land in favour of the petitioner.

It is stated that the petitioner's husband was granted a house site patta on 14-08-1986 in respect of Ac.0.03 cents of land situated in Sy.No.677/2 of Peddamandyam Village. Pursuant thereto they were put in possession. However, in the year 1987, when they started construction of a house on the said land, at the instance of one P.Reddenna, the Mandal Development Officer attempted to interfere with the possession of the petitioner. In the circumstances, the husband of the petitioner filed O.S.No.59 of 1994 on the file of the Court of the District Munsif, Themballepalle against the Mandal Development Officer and the said P.Reddenna seeking permanent injunction. The said suit was decreed on
30-07-1996 granting permanent injunction restraining the defendants therein from interfering with the possession and enjoyment of the petitioner's husband.

After the death of her husband in the year 1997, the petitioner came to know that the house patta in favour of her husband was cancelled by the Revenue Divisional Officer, Madanapalle vide order dated 10-08-1998. The said order was challenged by the petitioner before the Joint Collector, which was dismissed on 19-11-1998. Aggrieved by the same, the petitioner preferred a revision petition

before the Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad. The said revision petition was also dismissed by order dated 21-07-1999 holding that since the assignment was granted in favour of the petitioner's husband without obtaining the necessary orders from the Collector for change of classification from Rasta Poramboke to the village site poramboke and that apart since the land was not sub divided nor the consent of the Gram Panchayat was obtained, the assignment was irregular. It was also found that since the land in question was surrounded by buildings like Panchayat Office, School and etc., it is required for public purpose and therefore, the District Collector was justified in directing resumption of the land. However, there was a direction to allot alternative site to the petitioner, if she is otherwise eligible. The said order passed by the Commissioner of Land Administration, A.P.Hyderabad dated 21-07-1999 thereby confirming the cancellation of patta in favour of petitioner's husband is under challenge in this writ petition.

I have heard the learned counsel for both parties and perused the material on record.

In the counter affidavit filed on behalf of the respondents, the fact that the petitioner's husband was granted a house site patta on 14-08-1986 is not disputed. However, it is stated that since the petitioner's husband constructed a house unauthorisedly, causing obstruction to pathway to the Gram Panchayat and Mandal Parishad Elementary School, the then Sarpanch by name P.Reddenna raised objections in the year 1998. It is further stated that since the said patta was in respect of a land classified as rasta poramboke, adjacent to R&B road in the premises of the Mandal Parishad Elementary School, Peddamandyam blocking the approach road to the Gram Panchayat Office and Mandal Parishad Elementary School, Peddamandyam and that apart since no construction was made in the house site within the time prescribed in condition No.4 by the patta, the Revenue Divisional Officer passed an order dated 10-08-1998 canceling the house site patta. The said order was

confirmed on appeal by the Joint Collector, Chittoor by order dated 19-11-1998. It is contended that the resumption of the land was justified since the conditions of the patta were violated and more over the land in question was required for communal purpose.

Learned counsel for the petitioner while placing reliance upon a decision of a Larger Bench of this Court in ***Land Acquisition Officer-cum-Revenue Divisional Officer and others v. Mekala Pandu and others***[1] contended that even assuming that the land assigned to the petitioner's husband is required for a public purpose, the respondents cannot resume the same without payment of compensation under the provisions of the Land Acquisition Act.

As held by the Lager Bench in the above decision, the assignees of the Government lands are entitled to payment of compensation on par with the full owners of the land even in cases where the assigned lands are taken possession of by the State in accordance with the terms of the grant or patta for a public purpose.

As could be seen from the material on record, one of the reasons for cancellation of assignment was that the land in question was required for a public purpose. There was also a direction by the Joint Collector, Chittoor to provide alternative house site to the petitioner, if she was otherwise eligible.

Though it is alleged that the petitioner failed to make the construction on the assigned land in accordance with condition No.2 of assignment, it is clear that the cancellation is only on the ground that the site in question is situated in a prime locality and required for a public purpose.

In the circumstances, though this Court is not inclined to interfere with the order of cancellation, since the resumption is for a public purpose, the respondents are bound to compensate the petitioner either by providing alternative site or by paying compensation in terms of the decision of the Larger bench in **Mekala Pandu's** case(1 supra).

Accordingly, the writ petition is disposed of with a direction to the

respondents to provide alternative site, in terms of the orders under challenge, within a period of four months from the date of receipt of a copy of this order. If no such alternative land is provided within the time prescribed above, the petitioner shall be paid compensation in terms of the decision of this Court in ***Land Acquisition Officer's*** case(1 supra).

The writ petition is accordingly disposed of. No costs.

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G. ROHINI, J

Date: 05-10 -2007
KLP

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[1] AIR 2004 AP 250